

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4426 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No

PRAGJI CHAKUBHAI PARMAR

Versus

]TATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner
Mr. Nigam Shukla, learned Asst.G.P. for the respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 04/11/96

ORAL JUDGMENT :

1. This Special Civil Application is directed against the detention order dated 28-4-96 passed by the District Magistrate, Jamnagar whereby the petitioner has been detained under the provisions of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as 'the Act'). The detention order was executed on 29-4-96 and since then the petitioner is under detention lodged at Bhavnagar

District Prison, Bhavnagar.

2. The present Special Civil Application was filed in this court on 27-6-96 and on 28-6-96 Rule returnable on 31-7-96 was issued. But so far neither any reply has been filed on behalf of the respondents nor any affidavit of the detaining authority has been filed.

3. The grounds enclosed with the detention order show that 5 criminal cases under the Bombay Prohibition Act were registered against the petitioner; out of which 3 were pending trial before the Court and in 2 matters, the police investigation was going on at the time when the impugned order of detention was passed. After taking notice of the allegations in these 5 criminal cases, the detaining authority has also taken into consideration the statements of 4 witnesses made on 10-4-96 against the petitioner's anti social, criminal and bootlegging activities. The detaining authority has found that the petitioner is a bootlegger and has created an atmosphere of terror, the witnesses were not prepared to come openly against him on account of his fear and the passing of the detention order was necessary to prevent him from continuing with his anti social and bootlegging activities. Accordingly the detention order was passed.

4. The detention order has been challenged on more than one grounds. But the leareened counsel for the petitioner has kept her arguments confined to the question that even if the allegations and materials against the petitioner are taken to be correct on its face value, it can not be said that a case of breach of public order is made out. At the most it is a case of breach of law and order.

5. For the reasons given in the judgment dated 4-10-96 in Special Civil Application No.3879/96 it is found that the allegations and materials, on the basis of which the detention order has been passed, do not constitute a case of breach of public order and it is at the most a case of breach of law and order. The detention order, therefore, can not be sustained in the eye of law.

6. Accordingly this Special Civil Application is allowed and the impugned detention order dated 28-4-96 passed by the District Magistrate, Jamnagar is hereby quashed and set aside and the petitioner's detention is declared to be illegal. The respondents are directed to release the petitioner and set him at liberty forthwith, if not required in any other case. Rule is made

absolute.

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